

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

**INSTRUCTIONS FOR FILING A COMPLAINT BY A PRISONER
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. §§ 1983**

I. 42 U.S.C. §§ 1983

You may file an action under 42 U.S.C. §§ 1983 to challenge federal constitutional or statutory violations by state actors which affect the conditions of your confinement.

A §§ 1983 action may not be used to challenge the length of your sentence or the validity of your conviction. Such claims must be addressed in a petition for a writ of habeas corpus, on the correct forms provided by the clerk of the court.

II. Filing a §§ 1983 Action

To file a §§ 1983 action, you must submit: (1) an original complaint and (2) a check or money order for \$350.00 or an original Prisoner's In Forma Pauperis Application.

This packet includes a complaint form and a Prisoner's In Forma Pauperis Application. When these forms are fully completed, mail the originals to: Clerk of the United States District Court for the Northern District of California, 450 Golden Gate Avenue, Box 36060, San Francisco, CA 94102.

III. Filing Fees

Under the Deficit Reduction Act of 2005, the filing fee for a § 1983 action filed on or after April 9, 2006 has been increased to \$350.00 from \$250.00, to be paid at the time of filing. If you are unable to pay the full filing fee at this time, you may petition the court to proceed in forma pauperis, using the Prisoner's In Forma Pauperis Application in this packet. You must fully complete the application and sign and declare under penalty of perjury that the facts stated therein are true and correct.

Each plaintiff must submit his or her own Prisoner's In Forma Pauperis Application. You must use the Prisoner's In Forma Pauperis Application provided with this packet and not any other version.

IV. Complaint Form

You must complete the entire complaint form. Your responses must be typewritten or legibly handwritten and you must sign and declare under penalty of perjury that the facts stated in the complaint are true and correct. Each plaintiff must sign the complaint.

Under 42 U.S.C. § 1997e, you are required to exhaust your administrative remedies before filing a §§ 1983 action; you must indicate clearly on the complaint form whether you have done so.

1 **V. After Complaint Is Filed**

2 You will be notified as soon as the court issues any order in your case. It is your
3 responsibility to keep the court informed of any changes of address to ensure you receive court
orders. Failure to so do may result in dismissal of your action.

4 **VI. Repeat Filers**

5 If you are seeking leave to proceed in forma pauperis and, while incarcerated or detained,
6 you have filed §§ 1983 actions on three or more prior occasions which were dismissed as
frivolous, malicious, or for failure to state a claim upon which relief may be granted, you may not
7 file a new §§ 1983 action unless you are under imminent danger of serious physical injury. 28
U.S.C.
§§ 1915(g).

8 **VII. Inquiries and Copying Requests**

9 Because of the large volume of cases filed by inmates in this court and very limited court
resources, the court can no longer answer questions concerning the status of your case or provide
10 copies of documents, except at a charge of fifty cents (\$0.50) per page. You must therefore keep
copies of all documents submitted to the court for your own records.
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COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C §§ 1983

Name _____
(Last) (First) (Initial)

Prisoner Number _____

Institutional Address _____

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

(Enter the full name of plaintiff in this action.)

vs.

Case No. _____
(To be provided by the Clerk of Court)

**COMPLAINT UNDER THE
CIVIL RIGHTS ACT,
Title 42 U.S.C § 1983**

(Enter the full name of the defendant(s) in this action)

[All questions on this complaint form must be answered in order for your action to proceed..]

I. Exhaustion of Administrative Remedies.

[Note: You must exhaust your administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.]

A. Place of present confinement _____

B. Is there a grievance procedure in this institution?

YES () NO ()

C. Did you present the facts in your complaint for review through the grievance procedure?

YES () NO ()

D. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue a certain level of appeal, explain why.

1 1. Informal appeal _____

2 _____

3 _____

4 2. First formal level _____

5 _____

6 _____

7 3. Second formal level _____

8 _____

9 _____

10 4. Third formal level _____

11 _____

12 _____

13 E. Is the last level to which you appealed the highest level of appeal available to
14 you?

15 YES () NO ()

16 F. If you did not present your claim for review through the grievance procedure,
17 explain why. _____

18 _____

19 _____

20 II. Parties.

21 A. Write your name and your present address. Do the same for additional plaintiffs,
22 if any.

23 _____

24 _____

25 _____

26 B. Write the full name of each defendant, his or her official position, and his or her
27 place of employment.

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III. Statement of Claim.

State here as briefly as possible the facts of your case. Be sure to describe how each defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any cases or statutes. If you have more than one claim, each claim should be set forth in a separate numbered paragraph.

IV. Relief.

Your complaint cannot go forward unless you request specific relief. State briefly exactly what you want the court to do for you. Make no legal arguments; cite no cases or statutes.

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I declare under penalty of perjury that the foregoing is true and correct.

Signed this _____ day of _____, 20____

(Plaintiff's signature)

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3 **INSTRUCTIONS FOR PRISONER'S**
4 **IN FORMA PAUPERIS APPLICATION**

5 You must submit to the court a completed Prisoner's In Forma Pauperis Application if
6 you are unable to pay the entire filing fee at the time you file your complaint or petition. Your
7 application must include copies of the prisoner trust account statement showing transactions
8 for the last six months and a certificate of funds in prisoner's account, signed by an authorized
9 officer of the institution.

10 **A. Non-habeas Civil Actions**

11 Effective April 9, 2006, the filing fee for any civil action other than a habeas is
12 \$350.00. Even if you are granted leave to proceed in forma pauperis, you must still pay the
13 full amount of the court's filing fee, but the fee will be paid in several installments. 28 U.S.C.
14 § 1915.

15 You must pay an initial partial filing fee of 20 percent of the greater of (a) the average
16 monthly deposits to your account for the 6-month period immediately before the complaint
17 was filed or (b) the average monthly balance in your account for the 6-month period
18 immediately before the complaint was filed. The court will use the information provided on
19 the certificate of funds and the trust account statement to determine the filing fee immediately
20 due and will send instructions to you and the prison trust account office for payment if in
21 forma pauperis status is granted.

22 After the initial partial filing fee is paid, your prison's trust account office will forward
23 to the court each month 20 percent of the most recent month's income to your prison trust
24 account, to the extent the account balance exceeds ten dollars (\$10.00). Monthly payments
25 will be required until the full filing fee is paid. If you have no funds over ten dollars (\$10.00)
26 in your account, you will not be required to pay part of the filing fee that month.

27 **If your application to proceed in forma pauperis is granted, you will be liable for
28 the full \$350.00 filing fee even if your civil action is dismissed. That means the court will
continue to collect payments until the entire filing fee is paid. However, if you do not
submit this completed application the action will be dismissed without prejudice and the
filing fee will not be collected.**

29 **B. Habeas Actions**

30 The filing fee for a habeas action is \$5.00. If you are granted leave to proceed in
31 forma pauperis you will not be required to pay any portion of this fee. If you are not granted
32 leave to proceed in forma pauperis you must pay the fee in one payment and not in
33 installments. **If you use a habeas form to file a non-habeas civil action, you will be
34 required to pay the \$350.00 filing fee applicable to all non-habeas civil actions.**

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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

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12 vs.

11 Plaintiff,

14 Defendant.
15 _____)

CASE NO. _____

12 **PRISONER'S**
13 **APPLICATION TO PROCEED**
14 **IN FORMA PAUPERIS**

16 I, _____, declare, under penalty of perjury that I am the
17 plaintiff in the above entitled case and that the information I offer throughout this application
18 is true and correct. I offer this application in support of my request to proceed without being
19 required to prepay the full amount of fees, costs or give security. I state that because of my
20 poverty I am unable to pay the costs of this action or give security, and that I believe that I am
21 entitled to relief.

22 In support of this application, I provide the following information:

23 1. Are you presently employed? Yes ____ No ____

24 If your answer is "yes," state both your gross and net salary or wages per month, and give the
25 name and address of your employer:

26 Gross: _____ Net: _____

27 Employer: _____

28 _____

If the answer is "no," state the date of last employment and the amount of the gross and net salary and wages per month which you received. (If you are imprisoned, specify the last place of employment prior to imprisonment.)

2. Have you received, within the past twelve (12) months, any money from any of the following sources:

- a. Business, Profession or self employment Yes ____ No ____
- b. Income from stocks, bonds, or royalties? Yes ____ No ____
- c. Rent payments? Yes ____ No ____
- d. Pensions, annuities, or life insurance payments? Yes ____ No ____
- e. Federal or State welfare payments, Social Security or other government source? Yes ____ No ____

If the answer is "yes" to any of the above, describe each source of money and state the amount received from each.

3. Are you married? Yes ____ No ____

Spouse's Full Name: _____

Spouse's Place of Employment: _____

Spouse's Monthly Salary, Wages or Income:

Gross \$ _____ Net \$ _____

4. a. List amount you contribute to your spouse's support:\$ _____

1 b. List the persons other than your spouse who are dependent upon you for
 2 support and indicate how much you contribute toward their support. (NOTE:
 3 For minor children, list only their initials and ages. DO NOT INCLUDE
 4 THEIR NAMES.).

5 _____
 6 _____

7 5. Do you own or are you buying a home? Yes ____ No ____

8 Estimated Market Value: \$ _____ Amount of Mortgage: \$ _____

9 6. Do you own an automobile? Yes ____ No ____

10 Make _____ Year _____ Model _____

11 Is it financed? Yes ____ No ____ If so, Total due: \$ _____

12 Monthly Payment: \$ _____

13 7. Do you have a bank account? Yes ____ No ____ (Do not include account numbers.)

14 Name(s) and address(es) of bank: _____

15 _____

16 Present balance(s): \$ _____

17 Do you own any cash? Yes ____ No ____ Amount: \$ _____

18 Do you have any other assets? (If "yes," provide a description of each asset and its estimated
 19 market value.) Yes ____ No ____

20 _____

21 8. What are your monthly expenses?

22 Rent: \$ _____ Utilities: _____

23 Food: \$ _____ Clothing: _____

24 Charge Accounts:

25 Name of Account Monthly Payment Total Owed on This Acct.

26 _____ \$ _____ \$ _____

27 _____ \$ _____ \$ _____

28 _____ \$ _____ \$ _____

9. Do you have any other debts? (List current obligations, indicating amounts and to whom they are payable. Do not include account numbers.)

10. Does the complaint which you are seeking to file raise claims that have been presented in other lawsuits? Yes ____ No ____

Please list the case name(s) and number(s) of the prior lawsuit(s), and the name of the court in which they were filed.

I consent to prison officials withdrawing from my trust account and paying to the court the initial partial filing fee and all installment payments required by the court.

I declare under the penalty of perjury that the foregoing is true and correct and understand that a false statement herein may result in the dismissal of my claims.

DATE

SIGNATURE OF APPLICANT

Case Number: _____

CERTIFICATE OF FUNDS
IN
PRISONER'S ACCOUNT

I certify that attached hereto is a true and correct copy of the prisoner's trust account statement showing transactions of _____ for the last six months
[prisoner name]
_____ where (s)he is confined.

[name of institution]
I further certify that the average deposits each month to this prisoner's account for the most recent 6-month period were \$ _____ and the average balance in the prisoner's account each month for the most recent 6-month period was \$ _____.

Dated: _____

[Authorized officer of the institution]